

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

MICHAEL ANTONELLI, )  
vs. Petitioner, ) NO. CIV-05-372-T  
FEDERAL BUREAU OF PRISONS, )  
Respondent. )

## ORDER

Petitioner, a state prisoner appearing *pro se*, originally filed this action for habeas corpus relief in the United States District Court for the District of Columbia. The action was subsequently transferred to this court. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Bana Roberts for initial proceedings. On April 14, 2005 the magistrate judge filed a Report and Recommendation [Doc. No. 5] in which she recommended that this be transferred to the United States District Court for the Eastern District of Arkansas in accordance with 28 U.S.C. § 1631 because the record reflects that petitioner was incarcerated at the Federal Correctional Complex in Forrest City, Arkansas at the time he filed this action. The magistrate judge further recommended that petitioner's pending application to proceed *in forma pauperis* be decided by the transferee court.

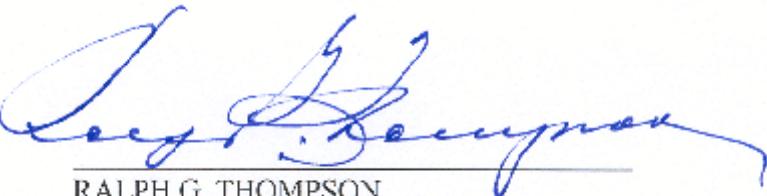
Petitioner has timely filed an objection to the Report and Recommendation. Although he expressly states that he has no objection to the case being transferred to Arkansas, he points out that he has paid the necessary filing fee in this court and, as a result, the application to proceed *in forma pauperis* need not be considered.

The court has reviewed the file and determined that petitioner's \$5.00 filing fee was received by the court clerk on April 25, 2005, after the date of the Report and Recommendation. Therefore, the

transferee court will not be required to consider the *in forma pauperis* application, as payment of the filing fee will be reflected in the court file transferred to the district court in Arkansas. To the extent that petitioner previously requested *in forma pauperis* status, that request should be considered moot.

Accordingly, subject to the fact that consideration of the *in forma pauperis* application is no longer necessary, the Report and Recommendation [Doc. No. 5] is adopted. The court clerk is directed to transfer this action to the United States District Court for the Eastern District of Arkansas.

IT IS SO ORDERED this 6<sup>th</sup> day of May, 2005.



RALPH G. THOMPSON  
UNITED STATES DISTRICT JUDGE

